



# INTER TRIBAL COUNCIL of ARIZONA

February 2, 2007

#### MEMBER TRIBES

AK-CHIN INDIAN COMMUNITY  
COCOPAH TRIBE  
COLORADO RIVER INDIAN TRIBES  
FORT McDOWELL YAVAPAI NATION  
FORT MOJAVE TRIBE  
GILA RIVER INDIAN COMMUNITY  
HAVASUPAI TRIBE  
HOPI TRIBE  
HUALAPAI TRIBE  
KAIBAB-PAIUTE TRIBE  
PASCUA YAGUI TRIBE  
PUEBLO OF ZUNI  
QUECHAN TRIBE  
SALT RIVER PIMA-MARICOPA  
INDIAN COMMUNITY  
SAN CARLOS APACHE TRIBE  
TOHONO O'ODHAM NATION  
TONTON APACHE TRIBE  
WHITE MOUNTAIN APACHE TRIBE  
YAVAPAI APACHE NATION  
YAVAPAI PRESCOTT INDIAN TRIBE

#### VIA ELECTRONIC MAIL

Office of Indian Energy and Economic Development  
Attn: 1813 ROW Study  
Room 20 – South Interior Building  
1951 Constitution Ave, NW  
Washington, DC 20585

RE: Comments on Section 1813 Rights of Way Study

Dear Sirs:

The Inter Tribal Council of Arizona (ITCA) has reviewed the December 21, 2006 *Report on Energy Right of Way on Tribal Land* (herein referred to as "Report"). The Report analyzes the historical legal perspective and draws the appropriate conclusion that tribal governments have the sovereign authority to negotiate agreements that impact its lands. Specifically, the Report reads in part, "A tribe's determination of whether to consent to an energy ROW across its land is an exercise of its sovereignty and an expression of self determination." (Report, p. 19)

ITCA strongly supports the finding that there is "no evidence that negotiations between parties for obtaining an energy ROW on tribal land contributed to any emergency situation" (Report, p. 9). This finding also demonstrates that negotiations and agreements are established on a consistent basis between tribes and the energy industry.

Tribal governments should continue to have the ability to negotiate agreements at an appropriate value that serves the best interest of the individual tribes. This requires a realistic approach that allows tribal governments to deal with the energy industry in the same manner that they would in any other business transaction.

Tribes exercise their inherent authority as sovereigns to determine what business agreements are in their best interest and with whom to do business. Such determinants are not based strictly on economic gain, but include others aspects such as environmental impacts to the natural resources of a finite land base and cultural considerations that are the heart and spirit of all tribal communities.

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In addition to the recommendation of Section 8.2; Status Quo with Congressional Case-by-Case Intervention (Report, p. 46), the ITCA submits that an additional recommendation is articulated in the approach posed in Section 7.1; No Action – Congress could elect no change, allowing ROW negotiations to continue under current laws, regulations, practices, and procedures. (Report, p. 43)

In summary, the ITCA supports the concepts expressed in the joint comments submitted by the Council of Energy Resource Tribes (CERT) and the National Congress of American Indians (NCAI) and the recommendation of the December 21, 2006 draft *Report to Congress – Energy Policy Act of 2005, Section 1813 – Indian Land Rights-of-Way Study*.

On behalf of the tribal governments that constitute the ITCA, I commend your diligence and effort in preparing a report that is consistent and well-balanced. Thank you for your consideration of the comments of both ITCA and of its member tribes. For more information, please contact Jacob Moore, Consultant at (480) 415-1306 or Paul Dearhouse, ITCA Community Development Specialist at (602) 307-1547.

Sincerely,

A handwritten signature in black ink, appearing to read 'J Fullmer', written in a cursive style.

Jamie Fullmer  
Chairman, Yavapai Apache Nation  
President, Inter Tribal Council of Arizona

xc: Arizona Tribal Leaders